

JAP:ELM

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN THE MATTER OF AN APPLICATION FOR A :
SEARCH WARRANT FOR:

THE PREMISES KNOWN AND DESCRIBED AS :
ONE BLACK FORD EXPEDITION, BEARING :
VEHICLE IDENTIFICATION NUMBER :
1FMPU18L1WLB10730, INCLUDING ANY :
LOCKED AND CLOSED CONTAINERS, AND :
CLOSED ITEMS CONTAINED THEREIN :
: 17 - 884 - M
: AFFIDAVIT IN
: SUPPORT OF A
: SEARCH WARRANT
: (Fed. R. Crim. P. 41)

EASTERN DISTRICT OF NEW YORK, SS:

FINBARR FLEMING, being duly sworn, deposes and states that he is a Detective with the New York City Police Department (the “NYPD”) and a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (the “ATF”), duly appointed according to law and acting as such.

Upon information and belief, there is probable cause to believe that presently located in the BLACK FORD EXPEDITION, BEARING VEHICLE IDENTIFICATION NUMBER 1FMPU18L1WLB10730 (the “SUBJECT VEHICLE”), further described in Attachment A, which currently is in the custody of the NYPD in Queens, New York, there will be certain items which constitute evidence of the commission, or fruits or instrumentalities, as detailed in Attachment B, of violations of federal laws, including but not limited to Hobbs Act Robbery and use of a firearm in furtherance thereof, in violation of Title 18, United States Code, Sections 1951(a), 924(c) and 2.

The source of your affiant's information and the grounds for his belief are as follows:¹

1. I am a Detective with the NYPD and have served as an NYPD officer for approximately 23 years. I have also served as a Task Force Officer with the NYPD/ATF Joint Robbery Task Force (the "JRTF") since 2014. I have investigated various federal criminal violations, including robberies and narcotics trafficking. During the course of these investigations, I have conducted physical surveillance, debriefed confidential informants and interview civilian witnesses.

2. I have personally participated in the investigation described below.

The information set forth below is based upon my experience and training as a Task Force Officer, my review of documentary and other evidence, my debriefing of witnesses and my discussions with other law enforcement agents. Unless specifically indicated, all conversations and statements described in this affidavit are related in sum and substance, and in part.

BACKGROUND AND PROBABLE CAUSE

3. The JRTF is investigating a pattern of six armed robberies of gas stations and convenience stores committed in the Eastern District of New York between September 24, 2017 and October 1, 2017. The investigation concerns possible violations of Title 18, United States Code, Sections 1951(a), 924(c) and 2, among other crimes.

¹ Because the purpose of this Affidavit is to set forth only those facts necessary to establish probable cause to search, I have not set forth all of the facts and circumstances of which I am aware.

4. The six armed robberies occurred at the following locations and dates:

Robbery Number	Date	Store	Address
1	9/24/2017	BP Gas	59-36 Maurice Avenue Queens, NY
2	9/24/2017	Mobile	69-08 Eliot Avenue Queens, NY
3	9/24/2017	Shell	92-10 Astoria Boulevard Queens, NY
4	9/30/2017	Speedway Gas	134-15 Cross Bay Boulevard Queens, NY
5	10/1/2017	7-Eleven	224-01 Merrick Boulevard Queens, NY
6	10/1/2017	Sunoco	243-02 South Conduit Avenue Queens, NY

5. Each of the six robberies under investigation by the JRTF follows the same pattern. Two men enter the store and shop for various items. After bringing their selections to the counter, one of the robbers displays a black or silver firearm while the second robber walks behind the counters and takes money from the cash register. In each of the robberies, one or both of the robbers wears a wig including a black wig with blond or light-colored highlights and a black wig with red or pink highlights.

6. Surveillance cameras from Robbery #1, #2, #3, #4 and #6 captured footage of the robbers. The images captured by the surveillance cameras show the robbers wearing a number of distinctive items of clothing, including:

- a. A white baseball cap (Attachment B, Exhibit 1);
- b. A white long-sleeved sweater or sweatshirt (Attachment B, Exhibit 2);
- c. Black and white sneakers (Attachment B, Exhibit 2);
- d. A black and gray argyle sweater (Attachment B, Exhibit 3);

- e. An orange baseball cap (Attachment B, Exhibit 4); and
- f. A black and white patterned sweatshirt (Attachment B, Exhibit 4).

7. Following three of the robberies – Robbery #3, #5 and #6 – the perpetrators fled in a dark SUV. The getaway car used in both Robbery#5 and #6 was identified as a dark-colored Ford Expedition. Surveillance cameras captured images of the dark-colored SUV used as a getaway car in Robbery #3 and #6. Footage captured following Robbery #6 revealed a large, distinctive white sticker on the back windshield of the SUV.

8. During one of the robberies, Robbery #1, one of the robbers dropped a piece of paper bearing a phone number. Law enforcement officers conducted Internet recognition of that phone number, and discovered that it was associated with an advertisement on Backpage.com, a website that allows users to post free classified advertisements, and a Facebook account. Pictures of the same person (“Target #1”) were posted on both the Backpage advertisement and the Facebook account. A search of NYPD databases revealed two addresses associated with Target #1.

9. Following the robberies, law enforcement canvassed the area around the addresses associated with Target #1 and discovered the location of the SUBJECT VEHICLE, which it had identified as the getaway car in Robbery #6 and other crimes based upon certain unique features (including the large sticker on the SUBJECT VEHICLE’s back windshield). Law enforcement also determined, based on its review of a law enforcement database, that the license plate on the SUBJECT VEHICLE may have been stolen.

10. After discovering its location, law enforcement began to conduct surveillance on the SUBJECT VEHICLE. During this surveillance, on or about October 3, 2017, law enforcement observed an individual entering the SUBJECT VEHICLE and

conducted a probable cause arrest. That individual, who was later identified as Sean Jack (“Jack”), was informed of and waived his Miranda rights. Jack agreed to be interviewed by law enforcement, and, during that interview, admitted ownership of the SUBJECT VEHICLE.²

11. Jack also admitted to his participation in Robbery #2 and #6, and stated that the gun used in the robberies was hidden inside the SUBJECT VEHICLE.³ Jack also identified himself as the man wearing a wig in a still image from surveillance footage that had been recorded during Robbery #6. He identified one of the robbers captured on surveillance video taken during Robbery #1 as Target #1.

12. Jack stated that he is in the process of moving out of his current apartment and is storing a number of his personal items in the SUBJECT VEHICLE. A number of items are visible in plain view through the SUBJECT VEHICLE’s back windows, including black wig with light-colored highlights and a long-sleeved white sweater or sweatshirt are visible in plain view through the back windows of the SUBJECT VEHICLE. I compared these items to images of the robbers captured by surveillance cameras, and determined that these items are the wig and sweater worn by one of the robbers during the commission of at least one robbery.

² Although Jack is not the registered owner of the car, our investigation revealed that he had purchased the SUBJECT VEHICLE in or about January 2017 or February 2017. Jack also admitted that the license plates on the SUBJECT VEHICLE were stolen.

³ On October 4, 2017, Jack was arrested pursuant to a Complaint filed in the United States District Court, Eastern District of New York, alleging violations of Title 18, United States Code, Sections 1951(a), 924(c) and 2. See United States v. Sean Jack, 17 M 878 (SMG) (ECF No. 1). Jack appeared before United States Magistrate Judge Steven M. Gold on October 4, 2017. Id. (ECF No. 2).

13. Following Jack's arrest, NYPD Officers seized the SUBJECT VEHICLE and towed it to a secured lot located in Queens, New York, where it remains today.

14. Based on the foregoing, it is probable that the SUBJECT VEHICLE will contain evidence of the crimes under investigation, such as the gun or guns used in the robberies, wigs worn to conceal the defendant's identity during the robberies, clothing worn during the robberies, DNA evidence or fingerprints that place the defendant in the SUBJECT VEHICLE – the getaway car used during at least some of the robberies – and other items used during the planning and commission of the robbery.

15. Because this warrant seeks permission to examine a vehicle already in law enforcement's possession, I submit that there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night.

CONCLUSION

16. Accordingly, based on the aforementioned information, as well as my training, experience, participation in other robbery investigations and execution of other search warrants, your deponent respectfully submits that there is probable cause to believe that a search of the SUBJECT VEHICLE will reveal that it contains certain items which constitute evidence of the commission, fruits and/or instrumentalities, of violations of Title 18, United States Code, Sections 1951(a) 924(c) and 2.

WHEREFORE, your affiant respectfully requests that a warrant be issued authorizing the ATF and the NYPD, with such other assistance as may be necessary, to search the SUBJECT VEHICLE, and to seize or photograph the items specified in

Attachment B, which constitute evidence, fruits and/or instrumentalities of violations of federal law, including, but not limited to, Title 18, United States Code, Sections 2113, 924(c), and 2.

FINBARR FLEMING
Task Force Office
Bureau of Alcohol, Tobacco, Firearms and
Explosives

Sworn to before me this
____ day of October, 2017

THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

ATTACHMENT A
Property to Be Searched

The property to be searched is the PREMISES KNOWN AND DESCRIBED AS ONE BLACK FORD EXPEDITION, BEARING VEHICLE IDENTIFICATION NUMBER 1FMPU18L1WLB10730, INCLUDING ANY LOCKED AND CLOSED CONTAINERS, AND CLOSED ITEMS CONTAINED THEREIN AND CLOSED CONTAINERS, AND CLOSED ITEMS CONTAINED THEREIN (the “SUBJECT VEHICLE”) currently located in a secured lot located in Queens, NY.

ATTACHMENT B
Description of the Items to Be Seized

Items to be seized, INCLUDING ANY LOCKED AND CLOSED CONTAINERS, AND CLOSED ITEMS CONTAINED THEREIN, constituting evidence, fruits and instrumentalities of violations of Title 18, United States Code, Sections 1951(a), 924(c), and 2, include, but are not limited to, the following:

1. Firearms, ammunition, any other weapons, gun leather and related items;
2. Fingerprints;
3. Fibers and hairs;
4. Items identifying persons who have occupied the vehicle;
5. Any wigs, including:
 - a. A black wig with blonde or light-colored highlights; and
 - b. A black wig with pink or red highlights.
6. Any of the following distinctive items of apparel, photographs of which are included below:
 - a. A white baseball cap (Attachment B, Exhibit 1);
 - b. A white long-sleeved sweater or sweatshirt (Attachment B, Exhibit 2);
 - c. Red and white sneakers (Attachment B, Exhibit 2);
 - d. Black and white sneakers (Attachment B, Exhibit 2);
 - e. A black and gray argyle sweater (Attachment B, Exhibit 3);
 - f. An orange baseball cap (Attachment B, Exhibit 4); and
 - g. A black and white patterned sweatshirt (Attachment B, Exhibit 4).

EXHIBIT 1



EXHIBIT 2



EXHIBIT 3



EXHIBIT 4

